

BBC CHARTERING & LOGISTIC)	AT LAW OR IN ADMIRALTY
GmbH & CO. KG,)	
)	Case No. 3:13-cv-6001
Plaintiff,)	
)	COMPLAINT FOR DECLARATORY
vs.)	JUDGMENT AS TO APPLICATION
)	OF COGSA TO MARINE CARGO
)	ACTION
LAMPSON INTERNATIONAL, LLC;)	
KVAERNER VERDAL A/S; IF)	
SKADEFORSIKRING NUF,)	
)	
Defendants.)	
)	
)	

1. Pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, Plaintiff asks the Court to rule that the dispute between Plaintiff and the Defendants pertaining to damage to cargo being transported from Longview, Washington, to Norway is governed by the Carriage of Goods by Sea Act, 46 U.S.C. 30701 et seq. (hereinafter “COGSA”), and asks the Court to determine the rights and obligations of the parties pursuant to COGSA, and the terms of the applicable bill of lading.

2. This is an action in Admiralty pursuant to 28 U.S.C. § 1333 and Fed. R. Civ. P. 9(h).

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1 3. Venue is appropriate in this District since the cargo that is the subject
2 of the suit was shipped from Longview, Washington, and was damaged as the ship
3 carrying the cargo was en route to its destination.

4 **PARTIES**

5 4. Plaintiff is a German corporation with its principal place of business in
6 Leer, Germany. At all relevant times, Plaintiff was a time charterer of the cargo
7 vessel BBC KIBO.

8 5. Defendant Lampson International, LLC, is a Washington corporation
9 with its principal place of business in Kennewick, Washington, and is involved in
10 the heavy lift, construction and transport business.

11 6. Defendant KVAERNER VERDAL A/S is a Norwegian corporation with
12 its principal place of business in Verdal, Norway, and is an engineering and
13 construction company.

14 7. Defendant IF SKADEFORSIKRING NUF is a foreign corporation
15 organized and existing under the laws of a state other than the State of
16 Washington, with its principal offices in Norway, and that allegedly issued a policy
17 of insurance to Kvaerner Verdal for the carriage of the goods which forms the basis
18 for this claim.

19 **FACTS**

20 8. On or about October 21, 2011, Defendant Lampson International
21 arranged for 158 pieces of a construction crane (hereinafter “the Cargo”) to be
22 delivered to Plaintiff at the port of Longview, Washington, for transport to
23 Defendant Kvaerner Verdal in Verdal, Norway. Plaintiff issued bill of lading no.
24 LONVER01 dated December 19, 2011 (hereinafter “the Bill of Lading”) as the
25 contract for carrying the Cargo between those two ports, and in which Defendant
26 Lampson International was designated as the Cargo’s shipper, and Defendant
27

1 Kvaerner Verdal was designated as the Cargo's consignee. (A copy of the Bill of
2 Lading is attached as Exhibit A.)

3 9. Pursuant to the Bill of Lading, the Cargo was shipped subject to the
4 provisions of the United States Carriage of Goods by Sea Act ("COGSA"), 46 USC
5 30701 note. Specifically, the Bill of Lading Special Clause B.(i) provides: "In case
6 the Contract evidenced by this Bill of Lading covers a shipment to or from a port in
7 the United States, including any US territory, the U.S. Carriage of Goods by Sea
8 Act of the United States of America 1936 (U.S. COGSA) shall apply."

9 10. The Vessel departed Longview on or about December 19, 2011, with
10 the Cargo on board bound for Verdal, Norway. The ship stopped Veracruz, Mexico,
11 Houston, Texas, and at Argentia, Newfoundland, Canada. The ship departed
12 Argentia on February 1, 2012, under the advice of a weather routing service. She
13 was bound for Falmouth, Cornwall, United Kingdom, where she planned to load
14 fuel before continuing her voyage to Scandinavia.

15 11. During the voyage, the ship encountered strong winds and high swell
16 from different directions. The ship's crew checked the cargo lashings twice daily to
17 ensure that they were secure.

18 12. On February 5, 2012, while encountering these rough weather
19 conditions in the North Atlantic, the crew discovered that a few pieces of the Cargo
20 had broken loose and become damaged, and damaged other Cargo stowed nearby.
21 The Vessel's Master issued a Note of Protest as to these matters. (A copy of the
22 Note of Protest is attached as Exhibit B.)

23 13. The Vessel proceeded to Verdal, Norway, where it arrived on or about
24 February 22, 2012, and the Cargo was unloaded.

25 14. The Defendants advise they intend to pursue a claim against Plaintiff
26 for the Cargo damage, although no suit has yet been initiated.

1 15. COGSA provides that it shall apply to water carriage of cargo to or
2 from any port in the United States in foreign trade. 46 USC § 30702 note.

3 16. The provisions of COGSA govern all claims for damage to the Cargo,
4 including all limitations and defenses provided for under that statute.

5 17. Pursuant to COGSA, Plaintiff cannot be liable for loss or damage to
6 the Cargo that arose from various enumerated causes, including dangers of the sea,
7 acts of God, insufficiency of packaging, acts or omissions of the shipper or owner of
8 the Cargo or their agents, or causes that do not involve the actual fault and privity
9 of Plaintiff or its agents.

10 18. The loss and damage to the Cargo in this case was the result of one or
11 more of the defenses under COGSA and, therefore, Plaintiff should be found to have
12 no liability for that loss or damage.

13 19. The Bill of Lading expressly states (under "Additional Clauses") that in
14 no event shall Plaintiff be liable for any loss or damage to the Cargo in excess of
15 \$500 per package or customary freight unit, unless, prior to the Cargo being handed
16 over to Plaintiff, the value of the Cargo has been declared and inserted into the Bills
17 of Lading. COGSA also specifically provides for such limitation of liability.

18 20. Defendants were provided with a fair opportunity to avoid this
19 limitation of liability. The value of the Cargo was not declared in the Bills of
20 Lading. Therefore, any potential liability of Plaintiff for loss or damage to the Cargo
21 is limited to \$500 per package or per customary freight unit.

22 **DECLARATORY ACTIONS**

23 Plaintiff asks the Court to declare as follows:

24 21. That the Court has personal and subject matter jurisdiction over all
25 claims by Defendants against Plaintiff for damage to the Cargo, and that venue
26 over those claims is proper in this Court.

